

ENTERED

April 03, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

LUKE C. TEIXEIRA,

Plaintiff,

v.

DALE WAINWRIGHT, *et al.*,

Defendants

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CIVIL ACTION NO. 2:19-CV-357


ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Before the Court is Magistrate Judge Jason Libby's Memorandum and Recommendation (M&R), entered on February 24, 2020. (D.E. 13). The M&R recommends that the Court dismiss Plaintiff's complaint (D.E. 1) with prejudice for failure to state a claim for relief pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1). (D.E. 13, p. 11–12). The M&R also recommends that the Court deny Plaintiff's request for class certification (D.E. 4). (D.E. 13, p. 12). Lastly, the M&R recommends that this dismissal count as a "strike" for purposes of 28 U.S.C. § 1915(g), and that the Clerk of Court be instructed to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at Three_Strikes@txs.uscourts.gov. (D.E. 13, p. 12). Plaintiff filed objections to the M&R. (D.E. 15).

Having carefully reviewed the proposed findings and conclusions of the M&R, the record, the applicable law, and having made a de novo review of the portions of the M&R to which Plaintiff's objections were directed, 28 U.S.C. § 636(b)(1), the Court **OVERRULES** Plaintiff's objections (D.E. 15). Accordingly, the Court:

- (1) **ADOPTS** the M&R (D.E. 13).
- (2) Plaintiff's complaint (D.E. 1) is **DISMISSED WITH PREJUDICE** for failure to state a claim for relief pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1).
- (3) This dismissal is counted as a strike for purposes of 28 U.S.C. § 1915(g), and the Clerk of Court is **ORDERED** to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at Three_Strikes@txs.uscourts.gov.
- (4) Plaintiff's request for class certification is **DENIED** (D.E. 4).
- (5) The Clerk of Court is **ORDERED** to administratively **CLOSE** this case.

SIGNED and ORDERED this 3rd day of April 2020.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE